

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT G. WYCKOFF,

Plaintiff,

V.

METROPOLITAN LIFE INSURANCE  
COMPANY AND KENNETH F.  
KACZMAREK,

Defendants.

CIVIL ACTION NO. 00-2248

CHIEF JUDGE DONETTA W. AMBROSE

**METROPOLITAN LIFE INSURANCE COMPANY’S AND KENNETH F. KACZMAREK’S MOTION IN LIMINE TO BIFURCTE PLAINTIFF’S ERISA CLAIM AND CLAIM FOR PUNITIVE DAMAGES**

Metropolitan Life Insurance Company (“MetLife”) and Kenneth F. Kaczmarek hereby submit the following Motion in Limine to Bifurcate Plaintiff’s ERISA Claim and Claim for Punitive Damages:

1. Plaintiff has made a claim for punitive damages. Evidence relating to plaintiff's punitive damages claim should be excluded from the liability portion of the trial.
2. In addition, the jury should be prohibited from hearing any evidence relating to plaintiff's 1994 Policy because plaintiff has no right to a jury trial with respect to his breach of fiduciary duty claim under ERISA.
3. Evidence relating to plaintiff's claim for punitive damages and plaintiff's ERISA claim should be bifurcated for the reasons set forth in detail in defendants' Brief in

Support of their Motion to In Limine to Exclude Plaintiff's ERISA Claim and Claim for Punitive Damages, which is incorporated by reference.<sup>1</sup>

**WHEREFORE**, defendants respectfully request that this Court grant Metropolitan Life Insurance Company's and Kenneth F. Kaczmarek's Motion in Limine to Bifurcate Plaintiff's ERISA Claim and Claim for Punitive Damages.

Respectfully Submitted,

s/ B. John Pendleton, Jr.

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and Kenneth F. Kaczmarek*

Dated: October 3, 2006

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<sup>1</sup> In support of the arguments set forth in detail in defendants' Brief in Support of its Motion to In Limine to Bifurcate Plaintiff's ERISA Claim and Claim for Punitive Damages, defendants enclose Ex. A, Maleski v. Metropolitan Life Ins. Co., A.D. No. 95-10451, Memo. Op. and Order of Court (C.C.P. Butler Cty. April 6, 2004).

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served via the electronic case filing system, on this 3<sup>rd</sup> day of October, 2006, on the following counsel of record:

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s/ B. John Pendleton, Jr.